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TITLE 29, CHAPTER V

CODE OF FEDERAL REGULATIONS

Part 511

Regulations Applicable to Industry Committees

Pursuant to Section 5

of the Fair Labor Standards Act of 1938

(52 Stat. 1060)

NOVEMBER 1938

UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

Part 511—

Rules and Regulations Applicable to Industry Committees[1]

Section 511.1.—Appointment of members.

The members of an industry committee are appointed and the chairman designated by the Administrator.

Section 511.2.—Appointment of subcommittees.

The chairman of the industry committee may appoint authorized subcommittees of one or more persons from among the membership of the committee; provided, however, that the industry committee may, by a vote of not less than a majority of all its members, adopt a different procedure for the appointment of authorized subcommittees.

Section 511.3.—Convening of committee.

An industry committee may be convened by the Administrator from time to time for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry. Orders by the Administrator convening an industry committee shall be published in the Federal Register and otherwise made public in a general press release.

Section 511.4.—Call of meeting of committees.

The industry committee shall meet at the call of the chairman or the Administrator. A subcommittee shall meet at the call of the chairman of the industry committee or the chairman of the subcommittee.

Section 511.5.—Place of meeting.

The industry committee and authorized subcommittees shall meet in Washington, D. C., unless the Administrator, or the chairman of the industry committee, or the chairman of the particular subcommittee, designates another place of meeting.

Section 511.6.—Quorum; requirement for decision of committee.

Two-thirds of the members of the industry committee shall constitute a quorum, and the decision of the industry committee shall require a vote of not less than a majority of all its members.

Section 511.7.—Personnel assistance for committees.

The chairman of the industry committee may request the Administrator to furnish specified legal, stenographic, clerical, and other assistance to the industry committee and to subcommittee.

[1] Issued under the authority contained in section 5, 52 Stat. 1060.

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Section 511.8.—Per diem and expense allowance for committee members.

Each member of the industry committee will be allowed a per diem of $15 for each day actually spent in the work of the committee, and will in addition be reimbursed for necessary transportation and other expenses incident to traveling, in accordance with Standardized Government Travel Regulations, as amended, dated January 30, 1934, and December 10, 1935. All travel expenses will be paid on travel vouchers certified by the chairman of the committee. Any other necessary expenses which are incidental to the work of the committee will, after approval by the Administrator, or his authorized representative, be paid upon the certification of the chairman of the committee.

Section 511.9.—Committee to investigate conditions in the industry.

Upon being convened by the Administrator, the industry committee shall proceed as expeditiously as possible to investigate conditions in the industry for which it is appointed for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry.

Section 511.10.—Evidence to be submitted to committee.

The industry committee shall consider such data as is submitted to it by the Administrator and by interested persons. The chairman of the committee may call upon the Administrator to furnish additional information to aid the committee in its deliberation. Any interested person may submit in writing pertinent data to the committee either through the Administrator or through the chairman of the committee.

Section 511.11.—Witnesses and public hearings.

The industry committee, or an authorized subcommittee, may hear witnesses who may be summoned by the chairman of the industry committee or may be brought before it by the Administrator. If an industry committee or an authorized subcommittee elects to hold a public hearing in the course of its investigations, the chairman of the committee or of the subcommittee shall cause to be inserted in the Federal Register and to be made public by a general press release a notice of the time, place, and scope of such hearing, at least 5 days before the date of such hearing.

Section 511.12.—Journal to be kept by committee.

The industry committee shall keep a journal, recording the time and place of all its meetings, the members present, the votes, and other formal proceedings, including the appointment of subcommittees; but shall not be required to keep a stenographic transcript of any testimony that may be given before it or of its discussions. Subcommittees shall keep a similar journal.

Section 511.13.—Subpoena power of committee.

For the purpose of performing its duties and functions, an industry committee may exercise the powers conferred by the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (U. S. C., 1934 edition, title 15, sections 49 and 50). These sections are set forth in full in the appendix to these regulations. Subpoenas and orders for the taking of testimony by deposition shall be issued only by the chairman of the industry committee or of a subcommittee upon forms to be furnished by the Administrator, and oaths shall be administered only by the chairman of the industry committee or of a subcommittee. Applications to a court for the enforcement of a subpoena shall be made only by the Administrator or his authorized deputy.

Section 511.14.—Privacy of information.

No member of an industry committee shall make public any information obtained by the committee or a subcommittee thereof without the approval of the Administrator.

Section 511.15.—Payment of witnesses.

Witnesses summoned before a committee shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Section 511.16.—Progress reports to Administrator.

When called upon by the Administrator, an industry committee shall furnish him with such reports relating to its activities and such other information as he may request.

Section 511.17.—Recommendation to Administrator on scope of industry.

An industry committee may, at any time, recommend to the Administrator that the scope of the industry as defined in the order appointing the committee be enlarged, modified, or restricted.

Section 511.18.—Final recommendations; basic considerations.

To reach the objective of a universal minimum wage of 40 cents an hour as rapidly as is economically feasible, the committee, in accordance with the declared policy of the act to eliminate labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and general well-being of workers, shall recommend the highest minimum-wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry.

The industry committee shall recommend such reasonable classifications as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum-wage rate (not in excess of 40 cents an hour) which (1) will not substantially curtail employment in such classifications, and (2) will not give competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum-wage rate which the committee determines will not substantially curtail employment in such classifications. In determining whether such classifications should be made in the industry, in making such classifications, and in determining the minimum-wage rate for such classifications, no classification shall be made and no minimum-wage rate shall be fixed solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) Competitive conditions as affected by transportation, living, and production costs;

(2) The wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) The wages paid for work of like or comparable character by employers who voluntarily maintain minimum-wage standards in the industry.

No classification shall be made on the basis of age or sex.

Section 511.19.—Report of committee; recommendations and reasons.

Upon the completion of its investigation, the industry committee shall submit to the Administrator a report containing its recommendations together with a statement of the reasons supporting such recommendations. No such recommendations shall be made by the committee unless concurred in by a vote of not less than the majority of all its members. The report shall be signed by all the members of the committee who approve it. Members dissenting therefrom shall note their dissent and append a signed statement in explanation thereof.

Section 511.20.—Records deposited with Administrator.

After a report is submitted, the committee shall deposit with the Administrator all of its records and documents.

Section 511.21.—Dissolution of committee.

If an industry committee is unable to arrive at a recommendation or refuses to make a recommendation, or unreasonably delays its work, it may be dissolved by the Administrator.

Section 511.22.—End of committee's function.

When a committee has submitted a report, as provided in section 511.19 hereof, it shall cease to perform any further functions until reconvened by the Administrator; provided, however, that the Administrator may dissolve the committee after it has submitted its report.

Originally issued by the Administrator, September 22, 1938. Reissued November 17, 1938.

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APPENDIX TO REGULATIONS PART 511

[Referred to in Section 511.13]

An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes (38 Stat. 717).

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such deposition may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it

shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

Approved, September 26, 1914.

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